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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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25697 7590 02/07/2008 ROSS D. SNYDER & ASSOCIATES, INC. PO BOX 164075 AUSTIN, TX 78716-4075			EXAMINER WONG, BLANCHE	
			ART UNIT 2619	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/998,504

Applicant(s)

DUBUC ET AL.

Examiner

Blanche Wong

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11 and 13-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-11,13-20,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 21-25 and 28-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Examiner clarifies that the last Office Action, dated July 12, 2007, is non-final.
2. The allowability of claims 19-33 have been withdrawn.

Claim Objections

3. Claims 10,11,13,23,24 are objected to because of the following informalities:

With regard to claims 10 and 11, Examiner suggests replacing "packets" in claim 10, line 6 and claim 11, line 3, with "data packets" in consistent with the usage in the other claims. All claims should check for this replacement accordingly.

With regard to claim 13, Examiner suggests replacing "each of the queues associated with a transport interfaces" in lines 2-3 with "each of the queues associated with one of the transport interfaces" in consistent with the claim language.

With regard to claim 23, Examiner suggests replacing "having one" in line 2 with "having exactly one" in consistent with "having exactly one" in claim 20.

With regard to claim 24, Examiner suggests replacing "a first differentiated service codepoint value" in line 4 with "the first differentiated service codepoint value" because "a first differentiated service codepoint value" is introduced in lines 1-2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to

which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims 1,4-11,13-18** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With regard to claim 1, claim 1 recites "... a plurality of transport interfaces operatively coupled to the service interface ... the second service interface operatively coupled to the plurality of transport interfaces" However, neither Fig. 1 nor the Specification discloses the same set of the plurality of transport interfaces shared by the service interface and the second service interface. Specifically, the Specification discloses in Fig. 1: "The apparatus includes a first node 101, and second node 102 ... The first node 101 comprises a service interface 104, ... and transport interfaces 110, 113, 116, and 119. Node 102 comprises a service interface 105 ... and transport interfaces 111,114,117, and 120. ..." There are at least two sets of nodes, at least two service interfaces, and at least two plurality transport interfaces. Moreover, for example, a second service interface in a second node is operatively coupled to a second plurality of transport interfaces. Therefore, claim 1 fails to comply with the enablement requirement because one skilled in the art is unable to provide for a second node or a second plurality of transport interfaces.

Similarly, with regard to claim 10, claim 10 recites "receiving the data packets at a service interface ... routing the data packets to transport interfaces ... receiving at a second service interface the data packets from the transport interfaces." However, neither Fig. 1 nor the Specification discloses the same set of the plurality of transport interfaces shared by

the service interface and the second service interface. Specifically, the Specification discloses in Fig. 1: "The apparatus includes a first node 101, and second node 102 ... The first node 101 comprises a service interface 104, ... and transport interfaces 110, 113, 116, and 119. Node 102 comprises a service interface 105 ... and transport interfaces 111, 114, 117, and 120. ..." There are at least two sets of nodes, at least two service interfaces, and at least two plurality of transport interfaces. Moreover, for example, a second service interface in a second node is operatively coupled to a second plurality of transport interfaces. Therefore, claim 10 fails to comply with the enablement requirement because one skilled in the art is unable to provide for a second node or a second plurality of transport interfaces.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1,4-9** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 1, it is unclear how/why "a differentiated service profile [is] associated with the service interface" in lines 5 but "a second differentiated service profile [is] operatively coupled to the second service interface" in lines 12-13, or whether there is a difference between "associated" and "operatively coupled".

With regard to claim 5, it is unclear whether "the differentiated service profile" in line 3 is the second differentiated service profile because claim 5 recites "the second service

interface" in line 1 and the second service interface is associated with the second differentiated service profile, not "the differentiated service profile".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 19,20 and 26,27** are rejected under 35 U.S.C. 102(e) as being anticipated by Kuykendall, JR. (US 2002/0181044).

With regard to claims 19 and 26, Kuykendall Jr. discloses **(Fig. 4)**

a service interface **(hub location 16 and enterprise switch 40 in Fig. 4) (See A/so translator capability 40, para. [0087])** for carrying the data packets, wherein the data packets have a plurality of the classes of service **(circuit switched, IP telephone, ISP backbone, CATV, 19-22 in Fig. 4);**

transport interfaces **(Local Exchange Carrier Regional Switching Center, ISP Regional Peering Node, CATV Regional Network distribution center, 10,11,12 in Fig. 4),** carrying subsets of the data packets wherein the classes of service of the subsets of the

data packets carried by the transport interfaces are unique (**circuit switched, IP telephone, ISP backbone, CATV, 19-22 in Fig. 4**) to each of the transport interfaces.

With regard to claims 20 and 27, Kuykendall Jr. further discloses the transport interfaces (**Local Exchange Carrier Regional Switching Center, ISP Regional Peering Node, CATV Regional Network distribution center, 10,11,12 in Fig. 4**) are operably coupled to the service in bundles (**all going into enterprise switch 40 in Fig. 4**), each bundle having exactly one of the transport interfaces for each of the classes of service (**circuit switched, IP telephone, ISP backbone, CATV, 19-22 in Fig. 4**).

Allowable Subject Matter

7. Claims 21-25 and 28-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BW
January 30, 2008

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SUPERVISORY PATENT EXAMINER

